

# STIFLED GENEROSITY: HOW PHILANTHROPY HAS FUELED THE ACCUMULATION & PRIVATIZATION OF WEALTH

## 1913

### Income taxes & tax exempt status established: The beginning of the non-profit industrial complex

**Description:** The Revenue Act of 1913 established an income tax on the highest incomes. At the same time, institutions “organized and operated exclusively for religious, charitable, scientific or educational purposes” were exempted from paying federal income tax.

**Intent:** Federal income tax was established to compensate for the reduction in tariff dues, which was also a part of the Revenue Act. Charitable organizations were defined as those whose net income does not benefit “any private stockholder or individual.”

**How Generosity Got Stifled:** Public charities and independent foundations had been in existence for decades, and operated for the public good. This Act formally started the era in which tax policy regulated philanthropic activities and incentivized charitable giving. These laws created a distinct non-profit sector defined by their legal status. This was the beginning of the non-profit industrial

complex, in which the government has the ability to monitor and control social movements, and a reliance on state/foundation/corporate funding has derailed the course of social movements. Non-profits can only be as radical as their donors, and must often shape their activities to align with donor interests.

Source: Internal Revenue Service

## 1921

### Gifts to grant-making charities become tax deductible: The creation of lawful tax shelters for the wealthy

**Description:** Congress permits income tax deductions for gifts to grant-making charities, including private foundations. Charitable gifts can now be made “for the use of” charities and not just “to” charities.

**Intent:** By making contributions to private foundations also tax deductible, Congress further incentivized wealthy individuals to give directly to social safety programs in an effort to spur more philanthropy.

**How Generosity Got Stifled:** This act created a lawful tax shelter to accumulate wealth by allowing wealthy individuals to receive tax deductions for donations to private foundations. Individual taxpayers could deduct up to 50% of Adjusted Gross Income (AGI, or an individual's total gross income minus specific deductions). Until the Tax Reform act of 1969, there were

no regulations in place to require private foundations to disburse their assets/money to advance the public good within a set amount of time, so the money could accrue interest within a private foundation without any resources having to be dispersed to public charities.

Source: Internal Revenue Service

## 1953

### U.S. Supreme Court recognizes corporate philanthropy: Corporations get their piece of the tax shelter

**Description:** In *Smith v. Barlow*, the Supreme Court rules that the A. P. Smith Manufacturing Company can make a charitable donation to Princeton University, despite shareholder objections. Prior to the ruling, companies were only able to give to causes that directly benefited the company.

**Intent:** This ruling paves the way for the growth of philanthropic and cause-related giving in the private sector to minimize and avoid paying corporate taxes.

**How Generosity Got Stifled:** This ruling reinforced the practice of a privileged few (in this case, the directors of a corporation) lawfully being able to supercede the will of many (in this case, the corporation's shareholders) in the allocation of resources. It also lowered the effective

cost of donations because owners could donate straight from corporate coffers instead of taking the money out in a taxable way prior to donating.

Source: [en.wikipedia.org/wiki/AP\\_Smith\\_Manufacturing\\_Co.\\_v.\\_Barlow](http://en.wikipedia.org/wiki/AP_Smith_Manufacturing_Co._v._Barlow)

## 1969

### Private foundations recognized and regulated: Congress sets minimum standards for private foundations to disburse money

**Description:** The parameters of a private foundation are established through the Tax Reform Act. For these organizations, this Act established a minimum payout of grants as a percentage of assets – originally 6% adjusted based on investment rates and market yields.

**Intent:** As part of the growing backlash against private foundations becoming a tax shelter for the elite, Congress set this mandate as a way to ensure that private foundations were held to minimum standards for channeling their financial resources toward public good, not just perpetuating wealth accumulation.

**How Generosity Got Stifled:** The goal of defining private foundations was an attempt to increase “tax payer benefit” by regulating an annual distribution rate that was on par with investment yields so that money gained would be spent, and that wealth would be given away for the public good rather than guarantee that foundations last into perpetuity. It also

prevented concentration of ownership of a company inside one foundation and imposed a 4% excise tax on the investment income of foundations.

Source: Internal Revenue Service, Private Foundations Plus ([privatefoundationsplus.blogspot.com/2014/04/fixing-problem-of-foundation-payout.html](http://privatefoundationsplus.blogspot.com/2014/04/fixing-problem-of-foundation-payout.html))

## 1992

### Fidelity Charitable Gift Fund created: Wall Street finds a cash cow in Donor Advised Funds

**Description:** The Fidelity Charitable Gift Fund is created by the mutual fund company Fidelity. This marks the entry of financial service companies into the charitable giving marketplace. Fidelity quickly becomes the largest provider of Donor Advised Funds, and within ten years, Donor Advised Funds emerge as the second most popular charitable giving vehicle.

**Intent:** Community foundations had been the primary provider of Donor Advised Funds until now. Financial service companies are able to offer lower fees than community foundations, given the scale of assets already under management.

**How Generosity Got Stifled:** Financial resources are diverted from community foundations as donors shift to utilize financial service companies, becoming further distanced from communities. Unlike community foundations, these funds do not require local boards or local

relationships and have an even higher degree of anonymity for donors. Yet they are still legally considered public charities, allowing deductions of up to 50% of Adjusted Gross Income (AGI).

Source: Internal Revenue Service

## 1917

### Charitable contributions become tax deductible: Public resources become privatized

**Description:** When filing their tax returns, individuals are now permitted to deduct charitable contributions from their taxable income. Initially, deductions were capped at up to 15 percent of taxable income.

**Intent:** This tax policy was enacted after World War I as part of a stimulus package to boost the economy. By reducing an individual's tax burden, they would have more money left to spend (and give away).

**How Generosity Got Stifled:** The effect of this policy has been a continued and sustained diversion of previously taxed capital into private foundations, as the wealthiest citizens regularly use this to minimize their tax burden. By donating money to charitable organizations,

wealthy citizens could minimize their tax burden, which has resulted in less money for the “commons” (resources for the good of all).

Source: Internal Revenue Service

## 1931

### First Donor Advised Fund launched: Another wealth accumulation tool is created

**Description:** The first Donor Advised Fund is launched at the New York Community Trust. The second such fund was not created until 1935. A Donor Advised Fund is a philanthropic vehicle established at a public charity. It allows donors to make a charitable contribution, receive an immediate tax benefit and then recommend grants from the fund over time.

**Intent:** Donor Advised Funds offer donors a greater tax deduction for donations (compared to donations to foundations), while allowing donors to largely control where the funds go, even posthumously. There are no payout requirements for these funds. Instead of the funds being immediately disbursed to public charities, funds can sit in bank accounts for years before being in the hands of public charities.

**How Generosity Got Stifled:** Donor Advised Funds have become tools to afford the wealthy another lawful tax shelter. In addition to cash, a donor can write off appreciated securities (investments that have increased in value since the time they were bought) or to get a tax deduction for the market value of the donation and avoid capital gains taxes (taxes levied on profit from the sale of an investment). Because

contributions made from Donor Advised Funds are not required to be public information, individuals or corporations can conceal their support. Therefore, they have become an instrument of “dark money.”

Source: [nycommunitytrust.org/about/history/#1930](http://nycommunitytrust.org/about/history/#1930)

## 1964

### Publicly supported charities distinguished from private foundations: Congress tries to course correct for the increase in “tax shelters for the elite”

**Description:** The Revenue Act of 1964 codifies a distinction between publicly supported charities (American Red Cross, Salvation Army, etc.) and private foundations.

**Intent:** After years of public distrust of endowed foundations for being “tax shelters for the elite,” Congress created this distinction after a growing number of tax lawyers and estate planners had helped to proliferate private foundations as an instrument to accumulate wealth.

**How Generosity Got Stifled:** This policy offered an incentive for donors to make direct charitable donations to public charities working for the public good, instead of to private foundations only indirectly working for the public good by supporting public charities. However, it

didn't curtail efforts by wealthy individuals to accumulate their wealth within private foundations rather than using their wealth for public good.

Source: Internal Revenue Service

## 1981

### Private foundation payout rate decreased: “Legacy” gets defined as “existing in perpetuity”

**Description:** The “payout rate” for private foundations, previously set in 1969 as 6% adjusted based on investment rates and market yields, was lowered to a flat rate of 5% under pressure from foundation executives.

**Intent:** The flat payout rate was a compromise between reserving the wealthy elite's privilege to practice philanthropy (as well as protecting the industry of foundation professionals) and those who saw foundations' tax-subsidized assets as accountable to the public good.

**How Generosity Got Stifled:** The Tax Reform Act of 1981 essentially protected private foundations as lawful tax shelters to exist in perpetuity. By removing the

regulations for annual payouts to be adjusted based upon investment rates and market yields, the private interest of the wealthy have superceded public interest.

## 1998

### Full market value deductions of appreciated stock to private foundations become permanent: Smoke & Mirrors

**Description:** Congress allows donors to deduct the full market value of appreciated stock to private foundations. [IRS Code Section 170(e)(5)]

**Intent:** Congress believed that fair market value deductions would encourage more charitable giving to private foundations.

**How Generosity Got Stifled:** Wealthy donors now have another vehicle to minimize their tax burden. Investors typically need to pay capital gains taxes on profits from stock sales. However, with this policy, donors can avoid paying those taxes by donating the appreciated stocks (stocks that have increased in value since the time of purchase) to public charities,

who are already exempt from paying taxes. Less money becomes available for government programs, as essentially no taxes are levied on appreciated stocks that have been donated.

Source: Internal Revenue Service, General Explanation Of Tax Legislation Enacted In 1998: Report Of The Joint



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